

76-68804
7 Apr 1976IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

GUY DIVIAIO,	Plaintiff)
vs.))
CLARENCE M. KELLEY,)	No. 76-33-C3
Director, Federal Bureau)	F I L E D
of Investigation, et al.,	Defendants)

APR 7 1976

ARTHUR G. JOHNSON, Clerk
By *Patricia G. Brinkman* DeputyMEMORANDUM AND ORDER

This civil action was originally lodged in the United States District Court for the District of Columbia, on May 7, 1975, where leave to proceed without prepayment of costs was granted. On May 28, 1975, the action was transferred to the United States District Court for the Southern District of Indiana. At that time the plaintiff, Guy Diviaio, was an inmate at the United States Penitentiary at Terre Haute, Indiana. Summons was issued on August 29, 1975. Prior to the issuance of summons, the plaintiff twice amended his complaint. Upon the motion of the defendants, the case was transferred to the United States District Court for the District of Kansas on February 2, 1976. At that time the plaintiff was, and apparently still is, an inmate at the United States Penitentiary at Leavenworth, Kansas. The case was marked "filed" by the clerk of this court on February 20, 1976.

The plaintiff in this action seeks disclosure and production of numerous documents from three federal agencies pursuant to the Freedom of Information Act (5 U.S.C. § 552). Prior to the transfer of the case to this district the defendants filed, on November 5, 1975, their answer in the United States District

Court for the Southern District of Indiana. On December 31, 1975, the defendants filed a brief in support of four of their defenses set forth in their answer. In the brief it was stated that the defendants were willing to turn over certain documents to the plaintiff but would refuse others and reference was made to affidavits then being prepared by the defendants for submission to the court together with a motion for summary judgment and supporting brief. As of this date, the affidavits, motion and brief have not been received by this court.

In order that a just resolution of this action may be reached, it is

ORDERED that the defendants be granted twenty (20) days time in which to supply the affidavits above-mentioned and identify the documents that they are willing to turn over to the plaintiff. The clerk will transmit copies of this memorandum and order to the plaintiff, to the defendants, and to the United States Attorney for the District of Kansas.

Dated at Leavenworth, this 6th day of April, 1976.

(Signed) ARTHUR J. STANLEY, JR.

Senior Judge, Assigned

UNCLASSIFIED	CONFIDENTIAL	SECRET
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EXECUTIVE SECRETARIAT

Routing Slip

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5	DDI				
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SUSPENSE		Date			

Remarks:

3637 (1-75)

12 Apr
Date

ROUTE REGISTRY FILE *OK*